

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOE,

Plaintiff,

v.

MICHIGAN STATE UNIVERSITY,

Defendant.

Case No. 1:21-cv-870

Hon. Hala Y. Jarbou

ORDER

Before the Court is Plaintiff's ex parte motion for a temporary restraining order. Plaintiff is a member of Michigan State University's football team. He alleges that MSU suspended him from the team in February 2021 after a student alleged that he had sexually assaulted her. Since that time, Plaintiff has not been able to practice, lift, compete, or travel with the team.

Apparently, the sexual assault claim against Plaintiff hangs in limbo. Plaintiff claims that MSU has violated his rights under Title IX and its regulations by, among other things: (1) ignoring the presumption that he is not responsible for the alleged conduct until "a determination regarding responsibility is made at the conclusion of the grievance process," *see* 34 C.F.R. § 106.45(b)(1)(iv); (2) issuing an "interim sanction" before a final decision has been rendered through the grievance process, *see* 34 C.F.R. §§ 106.44, 106.45; and (3) not proceeding with the grievance process in a "prompt time frame," *see* 34 C.F.R. § 106.45(b)(1)(v).

The team's season runs from September to November. Plaintiff claims that he has already missed 5 games out of the team's 12-game season due to the suspension, and that further suspension will cause irreparable harm.

Under Rule 65(b) of the Federal Rules of Civil Procedure, the Court may issue a temporary restraining order without notice only if the Court finds that "specific facts in an affidavit or verified

complaint clearly show that immediate and irreparable injury, loss or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). Here, Plaintiff has not filed an affidavit or verified complaint, so the motion is improper. Accordingly,

IT IS ORDERED that Plaintiff’s Ex Parte Motion for a Temporary Restraining Order (ECF No. 4) is **DENIED**.

Dated: October 8, 2021

/s/ Hala Y. Jarbou
HALA Y. JARBOU
UNITED STATES DISTRICT JUDGE